



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,414	12/12/2003	Caitlyn Curtin	3681-000001/US	9098
30593 7590 10/30/2007 HARNES, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			EXAMINER GRAVINI, STEPHEN MICHAEL	
			ART UNIT 3749	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/733,414
Filing Date: December 12, 2003
Appellant(s): CURTIN, CAITLYN

MAILED
OCT 30 2007
Group 3700

John E. Curtin
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the appeal brief filed September 26, 2006 appealing from the Office action mailed June 20, 2005 remanded in a decision mailed September 27, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,822,878	JONES	10-1998
6,038,786	AISENBERG et al.	3-2000
5,590,622	BAHMAN	1-1997

5,857,263

CHAN

1-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

Claims 1-3, 5-6, 8, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (US 5,822,878). The claimed invention is construed under the current practice for claim language falling within 35 USC 112, sixth paragraph, as discussed above in the rejection, stated in a prior answer, but more clearly answered here. As remanded, each of the “means” claim language will be first interpreted before applying the prior art, as required by 35 USC 112, sixth paragraph. The “movement means” is specified at paragraphs [0011] and [0012] as first and second movement means which may comprise a pivoting mechanism or the like. Since the specification recites “may comprise” and “or the like,” it does not clearly link or associate that structure to the function recited in the claim because the specification is indefinite and open ended such that any means of movement would be satisfied to meet the claim language and specification structure. The “control means” is specified at paragraphs [0018] ,[0020], and [0025] as control means which may comprise a removable or built-in remote control, a timer, and sensors or appropriate circuitry, respectively. Again, since the specification recites “may comprise,” it does not clearly link or associate that structure to the function recited in the claim because the specification is indefinite and open ended such that any means of control would be satisfied to meet the claim language and specification structure. However at specification paragraph [0025], the

control means contains sensors and appropriate circuitry which will be used to consider limitations with respect to the corresponding structure thereof as required by 35 USC 112, sixth paragraph. The "securing means" is specified at paragraph [0016] as securing means which may comprise a heavy-duty plastic clip or a combination of a receptacle and main pole. Since the specification recites "may comprise," it does not clearly link or associate that structure to the function recited in the claim because the specification is indefinite and open ended such that any means of securing would be satisfied to meet the claim language and specification structure. The "muffler means" is specified at paragraphs [0023] and [0024] as muffling means (later reciting "[t]his muffler means" which may comprise a baffling structure made of a heat tolerant or heat resistant/sensitive material or the like. Since the specification recites "may comprise" and "or the like," it does not clearly link or associate that structure to the function recited in the claim because the specification is indefinite and open ended such that any means of muffler would be satisfied to meet the claim language and specification structure. Jones discloses the claimed dryer comprising:

a diffuser **30**, **34**, or **36** for allowing air to exit or to dry a surface of a user's body as disclosed in column 4 lines 43-67 of Jones wherein the disclosed "operator," "he," "passenger," or "driver" discloses the claimed intended use "for allowing air to exit and dry a user body surface" since that desired result can be reasonably and broadly construed, in light of the accompanying specification, to be the surface of a user's body in the disclosed vehicle (and wherein the disclosed nozzle is construed to anticipate the claimed diffuser because both allow air to exit in order to dry a surface of a user's body

as claimed and the claimed user is broadly and reasonably construed in light of the specification to include any being capable of being prevented from touching movement means as specified in paragraph [0014], or may be user held as specified in paragraph [0015], or allow mirror use as specified in paragraph [0015] such that claimed diffuser is capable of performing the intended use of allowing air to dry a user's body surface);

movement means **46 & 48** for moving the diffuser over a wide range of angles in order to dry different parts of the surface (wherein the disclosed motor **46** whose output shaft is connected via a belt and pulley system **48** is construed to anticipate the claimed movement means because at column 5 line 35 through column 6 line 55, a wide range of drying angles is expressly disclosed, especially at column 6 lines 18-31; furthermore the disclosed motor shaft belt and pulley system performs an identical function as the claimed and specified movement means because both have a pivoting mechanism or the like best shown in figures 2 & 3 of Jones wherein both structures perform the function in substantially the same way, i.e. sweeping a nozzle over a user body, with substantially the same result, i.e. drying a user body); and

control means **52** for sending instructions to the movement means in order to control the movement of the movement means over the wide range of angles (wherein the disclosed screw drive **50** received in a receptacle assembly **52** connected to nozzle **30** via arms **54** and **56** is considered to anticipate the claimed control means because at column 5 lines 47-51, mechanical structure inherently sends instructions to the claimed movement means to control a wide range of drying angles because it is this disclosed linkage that causes movement of one element, i.e. screw drive **50**, to "instruct"

movement to be "sent" to another element such as a nozzle **30**; furthermore the disclosed receptacle assembly with arms and screw drive performs an identical function as the claimed and specified control means because both have a removable or built-in remote control best shown in figure 1 of Jones wherein both structures perform the function in substantially the same way, i.e. remotely controlling the dryer in a timed cyclic manner to send instructions to the movement means, with substantially the same result, i.e. drying a user body). The control means has been construed to invoke the sixth paragraph of 35 USC 112 since the means for language is used, which is further modified by functional language, but is not considered to be modified by sufficient structure, material or acts for achieving the specified function (please see the claim construction under the sixth paragraph of 35 USC 112 above). Jones also discloses the claimed securing means **62** because the disclosed trolley which includes rollers **66** along a rail **68** attached via a cable **58** and a pulley **60** interconnected with center nozzle which performs an identical function as the claimed and specified securing means because both have a combination of a receptacle and main pole best shown in figures 5 & 6 of Jones wherein both structures perform the function in substantially the same way, i.e. combining a receptacle and main pole, with substantially the same result, i.e. moving the dryer nozzle up and down, wide range of angles selection (column 6 lines 18-23), preprogrammed movement control means (column 6 lines 1-17), programmable control means **214**, a muffler means (column 5 lines 6-9 wherein the disclosed open cell polyurethane foam to reduce noise performs an identical function as the claimed and specified muffler means because both protect nozzles baffling them

from heat and moisture wherein both structures perform the function in substantially the same way, i.e., covering the nozzle with substantially the same result, i.e. protecting the nozzle), a timer (column 4 line 47), and wherein the control means is operable to send the instructions to the movement means without the need for a user to access the control means (column 11 lines 54-64).

Claim Rejections - 35 USC § 103

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Aisenberg et al. (US 6,038,786). Jones is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed transceiver for detecting the presence or absence of a user, which is interpreted to be a motion or proximity sensor. Aisenberg, another dryer, is considered to disclose the claimed transceiver at column 7 lines 23-39. It would have been obvious to one skilled in the art to combine the teachings of Jones with the considered disclosed transceiver, disclosed by Aisenberg for the purposed of controlling user drying operations by automating the activation of a drying means by proximity or motion sensing.

Claims 7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones. Jones is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed lightweight material construction and heat sensitive, resistant, or tolerant material. It would have been an obvious matter of design choice to provide any type of construction material, since the Appellant has not patentably distinguished those types of claimed construction material from those found in the prior art cited in this action, along with the fact that any of the prior art

references teach that it would be obvious to provide lightweight material construction and heat sensitive, resistant, or tolerant material.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Bahman (US 5,970,622). Jones is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed removable remote control. Bahman, another dryer, is considered to disclose the claimed removable remote control at column 2 lines 23-34. It would have been obvious to one skilled in the art to combine the teachings of Jones with the considered disclosed removable remote control, disclosed by Bahman for the purposed of controlling user drying operations by allowing remote access for control.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Chan (US 5,857,263). Jones is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed retractable power cord. Chan, another dryer, is considered to disclose the claimed retractable power cord at column 2 lines 29-40. It would have been obvious to one skilled in the art to combine the teachings of Jones with the considered disclosed retractable power cord, disclosed by Chan for the purposed of changing the length of the power supply for the drying and allowing dryer use at different locations.

(10) Response to Argument

anticipatory rejection

Appellant argues that the claimed statement of intended use reciting "a diffuser for allowing air to exit or to dry a surface of a user's body" patentably distinguishes the

claimed invention over the prior art. Current Office practice generally limits patentability of intended use steps unless the invention claims a different structure or mechanical intervention from the prior art. In this case the teachings of the primary reference are capable of performing the intended use step since the disclosed dryer can be used to dry a surface of a user's body.

Appellant further argues that the exclusive use and safety concerns of primary reference Jones would patentably define the claimed invention over the prior art. Although exclusive use and safety are not claimed, the claimed invention could feasibly be practiced by the teachings of Jones.

Appellant points out that Jones expressly discloses that the operator of the vehicle is typically inside the vehicle during the drying process as discussed in the rejection above but not that the surface of a person's body is dried. The surface drying of a person's body is not claimed, it is the "surface of a user's body" which is claimed and can be reasonably and broadly construed to include the vehicle operator "typically" (column 4 line 45) inside the vehicle during the drying process. Since typically can be interpreted to include a vehicle operator outside the vehicle, Jones may expressly disclosed the claimed "surface of a user's body."

Appellant independent broad claim of a wide range of angles is considered to be expressly disclosed at column 6 lines 18-31 along with the specific narrower range dependently claimed. The disclosed oscillating nozzles is considered to expressly anticipate the claimed movement means, contrary to appellants assertion that movement means is not an oscillation from the nozzles over the claimed range. The

argued Coanda effect is noted but is not considered as relevant is the disclosed oscillating angle range cited in the rejection and in this response to arguments.

Primary reference Jones is considered to anticipate the claimed invention and examiner respectfully disagrees with appellants assertion to the contrary.

obviousness rejection

Appellant traverses the first obviousness rejection on two grounds.

First, Appellant asserts that primary reference Jones does not teach the claimed invention so the obviousness rejection in view of secondary reference Aisenberg should be withdrawn. Since the anticipatory rejection is considered proper, that rejection is maintained along with the obviousness rejection set forth in that rejection above.

Second, Appellant asserts that primary reference Jones and secondary reference Aisenberg would be improper to combine those references. The first obviousness rejection is considered to properly state the missing elements and discuss the appropriateness of combining those references. Appellant asserts that combination is impermissible based rendering the references unsatisfactory for their intended purposes or require the references' principle of operation to be modified. Both the primary reference and the secondary reference are in the field of analogous art of dryers. The claimed transceiver for detecting the presence or absence of a user, which is interpreted to be a motion or proximity sensor, is not considered to render modification of the prior art unsatisfactory for its intended use because a motion or proximity sensor in primary reference would allow a body passing under the independently claimed dryer to activate that dryer and satisfactorily operate for its intended purpose, i.e. drying.

Likewise the principle operation of Jones is drying and the proposed modification of the claimed transceiver for detecting the presence or absence of a user, which is interpreted to be a motion or proximity sensor, would not change the principle operation of the drying of that reference, because drying would be accomplished regardless of how the drying is activated.

Secondary reference Aisenberg is considered to obviate the claimed invention and examiner respectfully disagrees with appellant's assertion to the contrary.

Appellant traverses the second obviousness rejection because it is not clearly understood why the choice of material properties with respect to weight, resistance, sensitivities, or tolerance is not a matter of design choice. Each claimed property is not considered to patentably distinguish the claimed features over the prior art because those features are found in the cited prior art to this application and the claimed invention would perform substantially the same way, with substantially the same result, using substantially the same means. The second obviousness is considered proper and examiner respectfully disagrees with appellant's assertion to the contrary.

Appellant asserts that the third obviousness rejection is improper because primary reference Jones and secondary reference Bahman would be improper to combine those references. The third obviousness rejection is considered to properly state the missing elements and discuss the appropriateness of combining those references. Appellant asserts that combination is impermissible based rendering the references unsatisfactory for their intended purposes or require the references' principle of operation to be modified. Both the primary reference and the secondary reference

are in the field of analogous art of dryers. The claimed removable remote control is not considered to render modification of the prior art unsatisfactory for its intended use because a removable remote control in primary reference would allow a user to operate the independently claimed dryer to activate that dryer and satisfactorily operate for its intended purpose, i.e. drying. Likewise the principle operation of Jones is drying and the proposed modification of the claimed removable remote control, would not change the principle operation of the drying of that reference, because drying would be accomplished regardless of how the drying is activated. Secondary reference Bahman is considered to obviate the claimed invention and examiner respectfully disagrees with appellant's assertion to the contrary.

Appellant asserts that the fourth obviousness rejection is improper because primary reference Jones and secondary reference Chan would be improper to combine those references. The fourth obviousness rejection is considered to properly state the missing elements and discuss the appropriateness of combining those references. Appellant asserts that combination is impermissible based rendering the references unsatisfactory for their intended purposes or require the references' principle of operation to be modified. Both the primary reference and the secondary reference are in the field of analogous art of dryers. The claimed retractable power cord is not considered to render modification of the prior art unsatisfactory for its intended use because a retractable power cord in primary reference would allow a user to operate the independently claimed dryer to provide an electrical power means to the dryer to perform its intended use, i.e. drying. Likewise the principle operation of Jones is drying

Art Unit: 3749

and the proposed modification of the claimed retractable power cord, would not change the principle operation of the drying of that reference, because drying would be accomplished regardless of how the drying is electrically power. Secondary reference Chan is considered to obviate the claimed invention and examiner respectfully disagrees with appellant's assertion to the contrary.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Stephen Gravini

A handwritten signature in black ink that reads "Stephen Gravini". The signature is written in a cursive, flowing style.

Conferees: (not believed applicable based on remand under MPEP 1210)